

**PUBLIC NOTICE  
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
CITY OF SAN JOSÉ, CALIFORNIA**

***Project File Number, Description, and Location***

**PDC03-022.** Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District and subsequent permits to allow up to 170 single-family attached residential units on a 3.9-gross acre site located at the southwest corner of S. Sixth and E. Virginia Streets (US Development Partners, Owner/ Developer). Council District: 3

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **September 24, 2003** and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **September 4, 2003** and ends on **September 24, 2003**.

A public hearing on the project described above is tentatively scheduled for **September 24, 2003 at 6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library located at 150 E. San Fernando Street, the Biblioteca Latinoamericana Branch Library located at 921 S. First Street, and online at <http://www.ci.sj.ca.us/planning/sjplan/eir/MND2003.htm>. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **John Davidson, Project Manager** at (408) 277-8831.

Stephen M. Haase, AICP, Director  
Planning, Building and Code Enforcement

Date: September 4, 2003

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Deputy

**DRAFT  
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Virginia Terrace

**PROJECT FILE NUMBER:** PDC03-022

**PROJECT DESCRIPTION:** Planned Development Rezoning from LI Light Industrial to A(PD) Planned Development Zoning District and subsequent permits to allow up to 170 single-family attached residential units on a 3.9 gross acre site located at the southwest corner of S. Sixth and E. Virginia Street.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Southwest corner of S. Sixth and E. Virginia Street, Assessor's Parcel Number 472-18-051.

**COUNCIL DISTRICT:** 3

**NAME OF APPLICANT:** US Development Partners

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:**

John Mogannam, 50 W. San Fernando Street, Suite 420, San Jose, CA 95113; (408) 938-5781.

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

**Air Quality**

Construction of the proposed project could result in significant short-term air quality impacts associated with dust generation. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less-than-significant. The following construction practices would be implemented during all phases of construction on the project site:

- Use dust-proof chutes for loading construction debris onto trucks.
- Water to control dust generation during demolition of structures and break-up of pavement.
- Cover all trucks hauling demolition debris from the site.
- Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- Sweep daily (preferably with water sweepers) all paved access road, parking areas and staging areas at construction site.
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Install gravelbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

### **Cultural Resources**

Although it is unlikely that buried cultural materials will be encountered, the project will comply with the standard conditions for excavation activities as described below.

- In the event any historic or prehistoric cultural materials are encountered, all construction within a radius of 50 feet of the find would be halted, the Director of Planning, Building and Code Enforcement would be notified, and a qualified archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.
- In the event that human remains and/or cultural materials are found, all project related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
  - a. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
  - b. A final report shall be submitted to the Director of Planning. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusion, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.

## **Geology and Soils**

The following mitigation measures are included in the project and will reduce the potential geologic and soil impacts to a less than significant level:

- A design-level geotechnical investigation for the project will be completed to address the potential geologic hazards identified on the site. The geotechnical investigation for individual buildings will be completed and submitted to the City Geologist prior to construction.
- Potential impacts resulting from liquefaction-induced settlements and lateral spreading will be mitigated by following the recommendations of the design-level geotechnical investigation. Structures and foundations will be designed based upon the results of a detailed analysis of liquefaction potential on the site of individual buildings.
- The project buildings will be designed and constructed in conformance with the requirements of the Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking on the site.

## **Hazards and Hazardous Materials**

Conformance with the following regulatory program would reduce health risks associated with lead-based paint to a less than significant impact:

- A survey for lead based paint of painted surfaces and soil around buildings built prior to 1978 will be performed prior to demolition. Requirements in the California Code of Regulations 1532.1 will be followed during demolition activities, including employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.

## **Hydrology and Water Quality**

In conformance with the City of San Jose's Post-Construction Urban Runoff Management Policy, the project would implement Best Management Practices (BMP's) during construction to limit runoff contaminants from entering storm drains. The following measures would reduce water quality impacts in runoff to the maximum extent practicable:

- Implement regular maintenance activities, including sweeping driveways and public streets.
- The project would include post-construction structural controls as permanent features of the project where feasible, and BMP's for reducing contamination in storm water runoff. These measures could include, for example, regular sweeping of parking lots and driveways, and stenciling on-site catch basins to discourage illegal dumping.
- The project will comply with the City of San Jose Grading Ordinance, including erosion- and dust-control measures during site preparation and with the City of San Jose zoning ordinance requirement for keeping adjacent streets free of dirt and mud during construction.
- Restricting grading to the dry season or meet City requirements for grading during the rainy season;

- Using BMP's to retain sediment on the project site;
- Providing temporary cover of disturbed surfaces to help control erosion during construction.
- Providing permanent cover to stabilize the disturbed surfaces after construction has been completed.

## **Noise**

The following measures will be incorporated in the structural design, to reduce interior noise to an acceptable level:

- All townhouses in the development within approximately 650 feet of the southern edge of 1-280 roadway which have windows with views of the highway will require windows with sound transmission class (STC) ratings of between 31 and 33 to allow the interior noise standard to be met within residences.
- All townhouses on the Virginia, Sixth and Fifth Street facades of the project will be provided with mechanical ventilation capable of supplying the fresh air needs of the residents.

The project also includes the following mitigation measures, to minimize the potential noise disturbance to adjacent land uses:

- Construction noise can be mitigated by confining construction to hours acceptable to the City and their residents, typically 7:30 am to 5:30 pm, and restricting construction to weekdays and Saturdays only.
- Equip all internal combustion engine-driven equipment with mufflers which are in good condition and appropriate for the equipment.
- Utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
- Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a project construction area.
- Prohibit unnecessary idling of internal combustion engines.
- Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

## **Public Services**

The project does not have water flow adequate to provide fire protection to the site. Prior to the issuance of a Certificate of Occupancy, the project proponent shall construct improvements to provide the fire flow requirement of 4,500 gallons per minute to the project site.

## **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **September 24, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP, Director  
Planning, Building and Code Enforcement

Circulated on: September 4, 2003

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Deputy

Adopted on: \_\_\_\_\_

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Deputy

## PUBLIC HEARING NOTICE

The Planning Commission and the City Council of the City of San José will consider a change in **Zoning** at a public hearing in accordance with Title 20 of the San José Municipal Code on:

**Planning Commission Hearing**

**Wednesday, September 24, 2003, at 6:00 p.m.**  
City Council Chambers, Room 205, City Hall  
801 North First Street  
San Jose, CA 95110

**City Council Hearing**

**Tuesday, October 21, 2003 at 7:00 p.m.**  
City Council Chambers, Room 205, City Hall  
801 North First Street  
San Jose, CA 95110

The project being considered is:

**PDC03-022. Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 170 single-family attached residences with underground parking on a 3.9 gross acre site, located at/on the southeast corner of East Virginia Street and South 5th Street (250 E VIRGINIA ST) (250 E Virginia Llc, Owner). Council District 3. SNI: Spartan/Keyes. CEQA: Mitigated Negative Declaration.**

Reports, drawings, and documents for this project are on file and available for review, and a permit with recommendations will be available for your review during the week of the public hearing from **9:00 a.m. to 5:00 p.m.**, Monday, Wednesday, Fridays, and from **10:00 a.m. to 5:00 p.m.** Tuesday and Thursdays at:

Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, CA 95110  
(408) 277-4576

[www.ci-san-jose.ca.us/planning/sjplan/](http://www.ci-san-jose.ca.us/planning/sjplan/)

You are welcome to attend and to speak on this issue. To arrange an accommodation under the Americans with Disabilities Act to participate in this meeting, please call (408) 277-4576 (Voice) at least 48 hours before the meeting.

*\* If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.*

Comments and questions are welcome and should be referred to the **Project Manager, John Davidson**, at the e-mail address: [john.davidson@ci.sj.ca.us](mailto:john.davidson@ci.sj.ca.us) in the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project.



Joseph Horwedel,  
Deputy Director, Plan Implementation Division  
Dated: **September 04, 2003**

Patricia L. O'Hearn,  
City Clerk

Noticing Radius: **1000ft**

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE  
ESTABLISHES A FORMAT PROTEST PROCEDURE FOR REZONINGS  
AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezoning, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions.